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Emily B Caudill REGULATIONS COMPILER

1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 (Amendment)

4 103 KAR 43.010. Accountable Losses.

5 RELATES TO: KRS 138.210 [(+)], 138.220

6 STATUTORY AUTHORITY: KRS 131.130[(+)], 138.226

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Department of
8 Revenue to promulgate administrative regulations for the administration and enforcement of
9 Kentucky tax laws. This administrative regulation, under authority of KRS 138.226, interprets the
10 statute dealing with accountable losses and excludes non[other than] licensed dealers.

11 Section 1. No allowance for losses of gasoline or special fuels on which the Kentucky tax has
12 been paid can be made on gasoline or special fuels held in retail filling stations or in tanks other than
13 bulk plant or distribution tanks by licensed dealers and gasoline or special fuels held in any tanks by
14 parties other than licensed dealers. Such gasoline or special fuels having passed the statutory process
15 of "receiving," the act of use, sale, distribution or delivery, on which the tax is levied, has already
16 occurred.

17 Section 2. An allowance may be made by the department for a loss of "received" gasoline or
18 special fuels held in bulk and distribution tanks by licensed dealers from which sale or delivery is
19 made, provided an affidavit signed by the licensed gasoline or special fuels dealer is furnished the
20 department.

21 Section 3. If, after investigation, the losses are proved to the satisfaction of the department to

- 1 have occurred the dealer will be advised to make a deduction from subsequent monthly reports
- 2 equal to the amount of such approved losses.

103 KAR 43:010

APPROVED BY AGENCY:

Daniel Bork
DANIEL P. BORK, COMMISSIONER
Department of Revenue
Finance and Administration Cabinet

Oct 10, 2019
Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on December 27, 2019, at 10:00 a.m. in Room 9B, State Office Building, 501 High Street, Frankfort, KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through December 31, 2019. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Lisa Swiger, Tax Policy Research Consultant II, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky, 40601, (502) 564-9526 (telephone), (502) 564-3875(fax), Lisa.Swiger@ky.gov (email).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 103 KAR 43:010

Contact Person: Lisa Swiger
Phone Number: (502) 564-9526
Email: Lisa.Swiger@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation interprets KRS 138.226 dealing with accountable losses and excludes non-licensed dealers

(b) The necessity of this administrative regulation: This amendment is necessary to update 103 KAR 43:010 to add authorizing statutory references to conform to 13A requirements.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to conform with KRS 13A, KRS 131.130, KRS 131.131 and KRS 138.226.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will insure that the Department of Revenue is in compliance with KRS 13A.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: Updates the "STATUTORY AUTHORITY" and "RELATES TO" references to include applicable statutory references.

(b) The necessity of the amendment to this administrative regulation: See (1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c).

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 428 Licensed Motor Fuel businesses could be affected.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No actions are known.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There should be no costs to the entities as a result of adding statutory authority references to this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): None

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There is no expected cost to implement the proposed amendment. Current staff

and budgeted agency funding will absorb the implementation of this administrative regulation.

(b) On a continuing basis: There is no cost expected on a continual basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current departmental staff and funding will be used to implement and enforce this proposed amendment.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No additional funding or increase in fees is needed.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by the proposed amendment.

(9) TIERING: Is tiering applied? (Explain why or why not): Tiering is not applicable as the proposed amended regulation will be applied equally to all entities impacted by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 103 KAR 43:010

Contact Person: Lisa Swiger
Phone Number: (502) 564-9526
Email: Lisa.Swiger@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 13A, KRS 131.130, KRS 131.131 and KRS 138.226.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenues are expected to be generated by the provisions of this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred in the first year of this regulation being in effect.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: